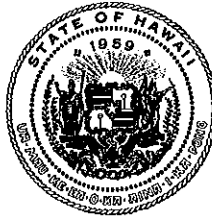
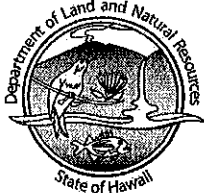


LINDA LINGLE
GOVERNOR OF HAWAII



**STATE OF HAWAII
DEPARTMENT OF LAND AND NATURAL RESOURCES**

POST OFFICE BOX 621
HONOLULU, HAWAII 96809

May 21, 2008

LAURA H. THIELEN
CHAIRPERSON
BOARD OF LAND AND NATURAL RESOURCES
COMMISSION ON WATER RESOURCE MANAGEMENT

RUSSELL Y. TSUJI
FIRST DEPUTY

KEN C. KAWAHARA
DEPUTY DIRECTOR - WATER

AQUATIC RESOURCES
BOATING AND OCEAN RECREATION
BUREAU OF CONVEYANCES
COMMISSION ON WATER RESOURCE MANAGEMENT
CONSERVATION AND COASTAL LANDS
CONSERVATION AND RESOURCES ENFORCEMENT
ENGINEERING
FORESTRY AND WILDLIFE
HISTORIC PRESERVATION
KAIHOOLAWE ISLAND RESERVE COMMISSION
LAND
STATE PARKS

Chairperson and Members
Board of Land and Natural Resources
State of Hawai'i
Honolulu, HI 96813

Land Board Members:

**SUBJECT: REQUEST FOR APPROVAL TO ENTER INTO A REBURIAL AGREEMENT
WITH VICTORIA JOHNSON FOR THE HUMAN SKELETAL REMAINS
REINTERRED ON HER PROPERTY AT LAIE AHUPUA'A, KO'OLAULO
DISTRICT, ISLAND OF O'AHU AT [TMK (1) 5-5-002:85]**

Submitted for your consideration is a request to enter into a reburial agreement with Victoria Johnson to implement the conditions agreed upon by the landowner and accepted by the State Historic Preservation Division.

Section 6E-43, and 6E-43.6, Hawaii Revised Statutes, require the State to regulate the proper treatment of human skeletal remains over fifty years old, at any site other than a known, maintained, actively used cemetery. In order to provide perpetual protection for the newly established burial site for the skeletal remains, its location will be recorded in the Bureau of Conveyances together with the attached Reburial Agreement. This Reburial Agreement establishes a permanent preservation zone, access rights for lineal and cultural descendants and states that the burial will not be willfully disturbed by the landowner, its successors and assigns.

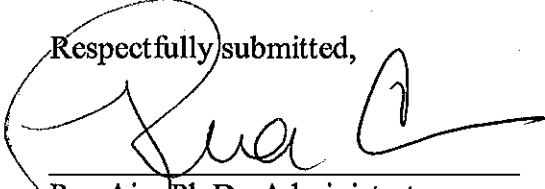
The office of the Attorney General has conducted a review of the Reburial Agreement and all suggested amendments were incorporated into the attached agreement.

ITEM I-5

RECOMMENDATION

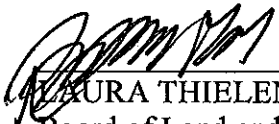
That the Board authorize Chairperson Thielen to execute the attached Reburial Agreement with Victoria Johnson.

Respectfully submitted,



Pua Aiu, Ph.D., Administrator
Historic Preservation Division

APPROVED FOR SUBMITTAL:



LAURA THIELEN, Chairperson
Board of Land and Natural Resources

[illegible]

REGULAR SYSTEM

REBURIAL AGREEMENT

This Reburial Agreement dated April 16, 2008, by and between VICTORIA JOHNSON whose address is 55-343 Kamehameha Highway, Laie, Hawai'i ("Landowner") and the State of Hawai'i ("State") by its Board of Land and Natural Resources whose address is Kalanimoku Building, 1151 Punchbowl Street, Honolulu, Hawai'i 96813.

WITNESSETH

WHEREAS, the Landowner owns real property at 55-343 Kamehameha Highway, Laie, Hawai'i 967 identified by Oahu Tax Map Key No. [(1) 5-5002:085] in which property an unmarked burial site containing the skeletal remains of one individuals was identified; and further described in "Exhibit A";

WHEREAS, the State, pursuant to Section 6E-43 and 6E-43.6, Hawai'i Revised Statutes, is responsible for regulating the proper treatment of human skeletal remains over fifty years old, at any site other than a known, maintained, actively used cemetery; and

WHEREAS, the parties desire to enter into this Agreement to rebury the human skeletal remains of this certain individual

NOW THEREFORE, in consideration of the above and the terms and conditions contained herein, the parties agree as follows:

1. The Landowner agrees to allow the skeletal remains of the ancestral Native Hawaiian to be reburied on the Landowner's property located at 55-343 Kamehameha Highway, Laie, Ahupua'a, Ko'olauloa District, Island of Oahu [TMK: (1) 5-5-002:085].
2. The Landowner, upon recommendation from the Department of Land and Natural Resources (DLNR) agrees to establish permanent buffer zones as follows: 1 foot from the fence to the southern property boundary, 14 feet to the eastern edge of the property, 11feet 8 inches east to the existing concrete patio and 12 feet 6 inches to the north.
3. The Landowner, upon recommendation from the DLNR, agrees that no digging shall take place within the buffer zone except for the manual planting and maintenance of shallow rooted plants.
4. The Landowner agrees to prepare a burial site 2 feet by 2 feet by 3 feet deep for the final repose of the remains.
5. The Landowner agrees to identify the location of the burial sites on a map and provide such information to the DLNR, Division of Historic Preservation.
6. The Landowner agrees to provide living Cultural and Lineal descendants, as determined by the OIBC in conjunction with SHPD-Burial Sites Program, access rights to visit the burial sites for cultural purposes. The access rights shall be by the most direct route across the Landowner's real property. A list of names and contact information of the Cultural and Lineal descendants shall be provided to the Landowner by the SHPD-Burial Sites Program. Such right of access shall be subject to the rules and policies of the Landowner. Cultural and Lineal descendants are to contact the Landowner or their representatives thereof to confirm dates and times of visitation. The request for visitation must be made at least 7 days in advance to confirm date and time.
7. The Landowner, on behalf of itself and its successors and assigns, covenant and agree not to willfully disturb in any manner, or allow the disturbance of in any manner, the repose of any human skeletal remains which are buried at its property at 55-343 Kamehameha Highway, Laie, Ahupua'a, Ko'olauloa District, Island of Oahu [TMK: (1) 5-5-002:085].

8. In the event the Landowner learns that the human skeletal remains, or any part thereof, are unearthed by natural causes or otherwise, the Landowner agrees to immediately notify the Department of Land and Natural Resources. The Landowner agrees not to handle the human skeletal remains in any manner. The Department of Land and Natural Resources, upon recommendation of the OIBC, shall take proper action to secure the remains in place.

IN WITNESS WHEREOF, the STATE OF HAWAII, by its Board of Land and Natural Resources, has caused the Seal of the Department of Land and Natural Resources to be hereunto affixed and the parties hereto have caused this Agreement to be executed as of the day, month, and year first above written.

STATE OF HAWAII


By _____
Chairperson, Board of Land and Natural Resources

By _____
Member, Board of Land and Natural Resources

LANDOWNER
A&B Kakaako, LLC

By _____

APPROVED AS TO FORM:



Deputy Attorney General

Dated: 5-6-08

STATE OF HAWAII

COUNTY OF

)

)

SS.

)

On this _____ day of _____, 20____, before me personally appeared _____ to me known to be the person described in and who executed the foregoing instrument and acknowledged that _____ executed the same as _____ free act and deed.

Notary Public, State of Hawai'i

My commission expires: _____

EXHIBIT "A"

The land referred to is situated in the City and County of Honolulu, at Laie, State of Hawaii, and is described as follows:

FIRST: All that certain parcel of land situate at Laie, District of Koolauloa, City and County of Honolulu, State of Hawaii, described as Lot 115C, area 11,437 square feet, more or less, in Section 1, as shown on Map 36, an undivided one-eighty-sixth (1/186) interest in and to Lot D-1, area 1,348.0 square feet, more or less, in Section 2, as shown on Map 10, for use as a right-of-way to the beach together and in common with the other lot owners of the "Laie Beach Lots" from time to time; the maps above referred to by numbers are on file in the Office of the Assistant Registrar of the Land Court of the State of Hawaii ("said Office") with Land Court Application No. 772 of Pacific Trust Company, Limited.

SECOND: That certain parcel of land situated on the easterly side of Kamehameha Highway at Laie, Koolauloa, Oahu, Hawaii, being Lot R-3, a portion of Royal Patent 7494, Land Commission Award 8559-B, Apanas 35 and 36 to W. C. Lunailo being also a remnant of Kamehameha Highway, being described as follows:

Beginning at the northwesterly corner of this parcel of land, on the easterly side of Kamehameha Highway, the coordinates of which referred to Government Survey Triangulation Station "LAIE" being 3,714.04 feet south and 302.72 feet west and running by azimuths measured clockwise from true south:

- | | | | | |
|----|------|-----|-------|--|
| 1. | 276° | 00' | 3.63 | feet along remainder of R. P. 7494, L. C. Aw. 8559-B, Apanas 35 and 36 to W. C. Lunailo; |
| 2. | 22° | 36' | 12.52 | feet along Lot 13 of Land Court Application 772; |
| 3. | 96° | 00' | 3.46 | feet along remainder of R. P. 7494, L. C. Aw. 8559-B, Apanas 35 and 36 to W. C. Lunailo; |
| 4. | 201° | 52' | 12.48 | feet along the easterly side of Kamehameha Highway to the point of beginning and containing an area of 43 square feet, more or less. |

Being all the property described in and covered by Transfer Certificate of Title No. 658,823 issued to DEWAYNE MCKINNEY, husband of Jeanine Susan McKinney, and JEANINE SUSAN MCKINNEY,

wife of Dewayne McKinney, as joint tenants.¹

TOGETHER with all fixtures and/or personal property (if any) described or itemized in any contract of sale between the parties hereto, which by reference is incorporated herein.

SUBJECT, HOWEVER, to the following:

1. Title to all minerals and metallic mines reserved to the State of Hawaii (as to Lot R3).
2. As to the portion of the land herein described bordering on the ocean (as to Lot 115C):

The effect of Sections 205A-41 to 205A-49, inclusive, Hawaii Revised Statutes, as now or hereafter amended, pertaining to shoreline setbacks.

Any adverse claim of the State of Hawaii based upon the contention that some portion of the land hereinafter described lies seaward of the line of vegetation, pursuant to the ruling of County v. Sotomura (1973) 55 H. 176, 517 P. 2d 57.

3. All fisheries and fishing rights belonging to Zions Securities Corporation pertinent to the Ahupuaa of Laie.
4. Perpetual aerial easement of the State of Hawaii over a right-of-way five (5) feet wide, set forth in an Exchange Deed recorded in said Office as Document No. 33011, and also recorded in the Bureau of Conveyances of the State of Hawaii ("Bureau") in Book 1281, Page 306.
5. Covenants, conditions, restrictions, reservations, agreements, obligations and other provisions set forth in an instrument dated August 21, 1943, recorded in said Office as Document No. 69255, and also recorded in the Bureau in Book 1778, Page 281, but omitting any covenants or restrictions, if any, based upon race, color, religion, sex, handicap, familial status, or national origin unless and only to the extent that said covenant (a) is exempt under Chapter 42, Section 3607 of the United States Code or (b) relates to handicap but does not discriminate against handicapped persons.
6. Covenants, conditions, restrictions, reservations, agreements, obligations and other provisions set forth in an instrument dated December 15, 1982, recorded in said Office as Document No. 1146783, and also recorded in the Bureau in Book 16787, Page 394, but omitting any covenants or restrictions, if any, based upon race, color, religion, sex, handicap, familial status, or national origin unless and only to the extent that

¹ Land Court Order No. 194578 notes the divorce of Dewayne McKinney and Jeanine Susan McKinney on November 16, 2004, filed on . Jeanine Susan McKinney continues to be known as Jeanine Susan McKinney.

said covenant (a) is exempt under Chapter 42, Section 3607 of the United States Code or (b) relates to handicap but does not discriminate against handicapped persons.

7. Easement "J" for access purposes, shown on Map 36 and set forth by Land Court Order No. 77880, filed on April 11, 1986 (affects Lot 115C).

8. Grant of Easement dated July 21, 1986, in favor of Hawaiian Electric Company, Inc., a Hawaii corporation, and GTE Hawaiian Telephone Company Incorporated, a Hawaii corporation, dated July 21, 1986, recorded in said Office as Document No. 1394269, and also recorded in the Bureau in Book 19778, Page 783, for power line right-of-way over Lot 115-C (with consent recorded in said Office on August 20, 1986 as Document No. 1394270, and also recorded in the Bureau in Book 19778, Page 789).

9. Grant of Easement dated July 14, 2003, in favor of Leslene Luke Murakami, wife of Lesley Jonathan Murakami, *et al.*, recorded in said Office as Document No. 2961862, and also recorded in the Bureau as Document No. 2003-148388, for vehicular and pedestrian ingress and egress purposes.

End of Exhibit "A"